

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

GUNVANTRAI HIRABHAI PATEL,)	
)	
<i>Petitioner,</i>)	
)	
v.)	Civil Action No. 3:13-cv-242
)	
PHILIP T. MILLER, in his official capacity as)	Judge Campbell
New Orleans Field Office Director for)	Magistrate Judge Knowles
Enforcement and Removal Operations, U.S.)	
Immigration and Customs Enforcement,)	
)	
<i>Respondent.</i>)	

APPLICATION FOR ORDER TO SHOW CAUSE

1. Pursuant to 28 U.S.C. § 2243, Petitioner Gunvantrai Patel respectfully requests this Court to issue an order to Respondent, requiring him to show cause within three days why Petitioner's Petition for Habeas Corpus Pursuant to 28 U.S.C. § 2241, attached herewith, should not be granted.

2. Petitioner challenges his continued detention by U.S. Immigration and Customs Enforcement (ICE) because he is being detained in violation of the Immigration and Nationality Act (INA), the Administrative Procedure Act, (APA) and the U.S. Constitution's Fifth Amendment Due Process Clause.

3. Petitioner seeks his immediate release from custody under reasonable conditions of supervision or, in the alternative, a constitutionally adequate hearing where Respondent must demonstrate that any continued detention of Petitioner is justified by law.

4. The federal habeas corpus statute provides that "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the

respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

5. The writ or order to show cause “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

6. Furthermore, the statute provides that the court “shall summarily hear and determine the facts, and dispose of the matter as law and justice require.” *Id.*

7. As described in Mr. Patel’s Petition, his present detention violates the Due Process Clause and the INA.

8. THEREFORE, pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that this Court require Respondent to file a return within three days of the Court’s order, showing cause, if any, why the writ of habeas corpus should not be granted.

9. THEREFORE, Petitioner further requests that the Court schedule a hearing on the Petition within five days of Respondent’s return, with an opportunity for Petitioner to file a traverse or reply two days before the hearing.

Date: March 19, 2011

Respectfully submitted,

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